



Land Use and Zoning Meeting Minutes

January 24, 2013

STAFF:	David Radachy
DATE:	January 25, 2013

The Land Use and Zoning Committee hereby finds and determines that all formal actions were taken in an open meeting and that all deliberations of the Land Use and Zoning Committee, which resulted in formal action, were taken in a meeting open to the general public, in full compliance with applicable legal requirements of Section 121.22 of the Ohio Revised Code.

The meeting was called to order at 6:30 p.m.

Attendance was taken by sign-in sheet. The following members were present: Messrs. Constantine, Hanford, Kenyon, Klco, Morse, Terriaco, and Welch and Ms. Malec. Staff: David Radachy.

No public comments were made.

Mr. Radachy stated that there is one case from Painesville Township on the agenda.

Painesville Township Text Amendment – Amending Sections 4.01, Penalty, 8.04 (7), Township Trustee Approval of Zoning Amendment, 6.13(C)(4), 6.13 (F), (G) and (H), Fences, 36.01, Wind Turbines and 12.02 (T), (U) and (V), Conditional Uses.

Staff stated that Painesville Township was revising the amounts of zoning fines in Section 4.01. They were changing the minimum amount of the fine from \$10 to \$50 and the maximum amount of the fine from \$100 to \$150. They were also revising Section 8.04(7) to require a majority vote of the Board of Township Trustees to modify a zoning amendment, which would bring it into compliance with ORC 519.12.

They were moving the language from Section 6.13(F) to Section 6.13(C)(4). Then deleting 6.13(F) and renumbering 6.13(G) as 6.13(F) and 6.13(H) as 6.13(G). They also are deleting Wind Turbines as a conditional use in Section 12.02(T). Renumbering 12.02(U) as 12.02(T) and 12.02(V) as 12.02(U) and deleting the language “(both as Permitted and Conditional Use)” from Section 36.01.

Staff stated that ORC 519.99 was amended to allow for fines up to \$500 in 2000. He mentioned that Concord Township and Perry Township state that zoning violations are misdemeanors and punishable by that section of law. Concord states that the fines shall be no larger than the maximum allowed under ORC 519.99 and Perry Township classifies the offense as a Class 3 Misdemeanor, which has a maximum fine of \$500. Classifying as a misdemeanor does bring the possibility of jail time for offences.

Mr. Constantine stated that the Zoning Commission would not be in favor of jail time. They would want the property owner out and working, so he would be able to pay the fine. He stated that Painesville Township uses the model that each day is a new violation. The owner would be fined up to \$150 per day.

Staff stated that Section 8.04(7) states that Trustees may request additional information. The paragraph stating it takes a unanimous vote is not part of 8.04(7), it is the last paragraph of Section 8.04. Staff felt that the changes to Section 6.13(C)(4) and 6.13(F) will make the regulations less confusing. He also stated that outdoor dining is a conditional use. The eight-foot fence is not stated in the conditions in Section 12, so it could not be considered by the BZA.

Staff stated that there are currently no conditions for Wind Turbines in Section 12. There are conditions in Section 36 for this use. The Board of Zoning Appeals may not be able to enforce the regulations in Section 36. The removal of the Wind Turbines as a conditional use places the responsibility of enforcing the conditions in Section 36 into the hands of the Zoning Inspector.

Staff recommended the following:

- Revise Section 4.01 to read the "...be fined not less than fifty dollars (\$50) nor more than ***the maximum allowed under ORC 519.99.***
- The Zoning Commission should explore the model of fining that Concord and Perry Townships are currently using.
- Recommend approval on the change to Section 8.04. Recommend that Section 8.04 be divided into 8.04 (A), "The Board of Township Trustees shall, upon a receipt...", 8.04 (B), "The published notice shall set forth the time...", and 8.04 (C), "Within 20 days after...". Items 1 through 7 would be part of 8.04 (B). This would cut down on confusion.
- Recommend the changes to Sections 6.13(C)(4) and 6.13(F) and the renumbering. Recommend adding the fencing requirement or reference to Section 6.12(C)(4) in Section 12.05(L).
- Recommend removing Wind Turbines as a conditional use under 12.02(T) and renumbering the sections.
- Recommend removing the language describing Wind Turbines as permitted or conditional use from Section 36.01.

The Committee discussed the pros and cons of having the zoning violations as a misdemeanor. They also discuss referencing ORC 519.99 in the zoning code. They felt that it would allow the Township to go up to \$500 if they needed to, but it would also increase the fines automatically if the ORC is amended to increase the fines.

The Committee liked the language: "Any person who files this Resolution or fails to comply with any of its requirements shall upon conviction be fined in accordance of ORC 519.99.

Mr. Morse made a motion recommending approval with staff's recommendations and the Committee revision. Mr. Terriaco seconded the motion.
All voted "Aye".
Motion passed.

That was the only case.

Mr. Welch asked for any new business. Staff stated that it was time to elect new officers.

Mr. Morse made a motion to keep the current slate of officers. Mr. Welch, Chair, Mr. Klco Vice Chair and Mr. Radachy, Secretary.
Mr. Terriaco seconded the motion.
All Voted "Aye".

Mr. Welch asked for any old business. Staff stated that there was none.

There was no public comment.

The meeting adjourned at 6:45 PM.